

CHAPTER 6
APPLICABLE LAWS, REGULATIONS, AND OTHER
REQUIREMENTS

6.0 APPLICABLE LAWS, REGULATIONS, AND OTHER REQUIREMENTS

Chapter 6 provides an update to the laws, regulations, agreements, and consultations that relate to environmental protection at the Los Alamos National Laboratory (LANL).

As part of the National Environmental Policy Act (NEPA) process, an agency must consider whether an action could threaten a violation of any Federal, State, or local law or requirement [40 *Code of Federal Regulations* (CFR) 1508.27] or require a permit, license, or other entitlement (40 CFR 1502.25). This chapter identifies and summarizes the major environmental requirements, agreements, and permits that could be required to support the *Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico* (SWEIS).

There are a number of Federal environmental laws that affect environmental protection, health, safety, compliance, and consultation at every U.S. Department of Energy (DOE) location. In addition, certain environmental requirements have been delegated to State authorities for enforcement and implementation. Furthermore, State legislatures have adopted laws to protect human health and safety and the environment. It is DOE policy to conduct its operations in a manner that ensures the protection of public health, safety, and the environment through compliance with all applicable Federal and State laws, regulations, DOE Orders, and other requirements.

The alternatives analyzed in this SWEIS involve either the operation of existing DOE facilities or the construction and operation of new DOE facilities. Actions required to comply with laws, regulations, and other Federal and State of New Mexico requirements may depend on whether a facility is newly built (preoperational), is operational, is undergoing decommissioning and decontamination, or is incorporated in whole or in part into an existing facility.

Requirements governing the continuation of LANL operations arise primarily from six sources: Congress, Federal agencies, Executive Orders, legislatures of the affected States, State agencies, and local governments. In general, Federal statutes establish national policies, create broad legal requirements, and authorize Federal agencies to create regulations that conform to the statutes. Detailed implementation of these statutes is delegated to various Federal agencies such as DOE, the U.S. Department of Transportation (DOT), and the U.S. Environmental Protection Agency (EPA). For many environmental laws under EPA jurisdiction, State agencies may be delegated responsibility for the majority of program implementation activities, such as permitting and enforcement, but EPA usually retains oversight of the delegated program.

Some applicable laws such as NEPA, the Endangered Species Act, and the Emergency Planning and Community Right-To-Know Act require specific reports and consultations rather than ongoing permits or activities. These are satisfied through the legal and regulatory process, including the preparation of this SWEIS.

Other applicable laws establish general requirements that must be satisfied, but do not include processes (such as the issuance of permits or licenses) to consider compliance prior to specific instances of violations or other events that trigger their provisions. These include the Toxic Substances Control Act (affecting polychlorinated biphenyl transformers and other designated substances); the Federal Insecticide, Fungicide, and Rodenticide Act (affecting pesticide and herbicide applications); the Hazardous Materials Transportation Act; and (in the event of a spill of a hazardous substance) the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

Executive Orders establish policies and requirements for Federal agencies. Executive Orders are applicable to Executive branch agencies, but do not have the force of law or regulation.

In addition to implementing some Federal programs, State legislatures develop their own laws. State statutes supplement as well as implement Federal laws for protection of air and water quality and for groundwater. State legislation in New Mexico addresses solid and hazardous waste management programs, locally rare or endangered species, and local resource, historic, and cultural values. The laws of local governments add a level of protection of the public, often focusing on zoning, utilities, and public health and safety concerns.

Regulatory agreements and compliance orders may also be initiated to establish responsibilities and timeframes for Federal facilities to come into compliance with provisions of applicable Federal and State laws. There are also other agreements, memoranda of understanding, or formalized arrangements that establish cooperative relationships and requirements.

The actions being considered in this SWEIS would be all located on LANL property controlled by the National Nuclear Security Administration (NNSA). NNSA has authority to regulate some environmental activities, as well as the health and safety aspects of nuclear facilities operations. The Atomic Energy Act of 1954, as amended, is the principal authority for DOE regulatory activities not externally regulated by other Federal or State agencies. Regulation of DOE activities is primarily established through the use of DOE Orders and regulations.

External environmental laws, regulations, and Executive Orders can be categorized as applicable to either broad environmental planning and consultation requirements or regulatory environmental protection and compliance activities, although some requirements are applicable to both planning activities and ongoing operations.

Section 6.1 of this chapter discusses major applicable Federal laws, regulations, and permits that impose nuclear safety and environmental protection requirements on the activities conducted at LANL. Each of the applicable regulations and statutes establishes how activities are to be conducted or how potential releases of pollutants are to be controlled or monitored. They include requirements for the issuance of permits or licenses for new operations or new emission sources and for amendments to existing permits or licenses to allow new types of operations at existing sources.

Section 6.2 discusses new or revised Executive Orders that may be applicable to LANL activities. Section 6.3 identifies DOE Orders for compliance with the Atomic Energy Act, the Occupational Safety and Health Act, and other environmental, safety, and health requirements

that may be applicable to LANL activities. Section 6.4 identifies State and local laws, regulations, permits and ordinances, as well as local agreements potentially impacting LANL. Consultations with applicable agencies and Federally-recognized American Indian Nations are discussed in Section 6.5.

6.1 Applicable Federal Laws, Regulations, and Permits

This section describes the Federal environmental, safety, and health laws and regulations and permits that could apply to LANL. These regulations address such areas as energy conservation, administrative requirements and procedures, nuclear safety, and classified information. Activities under all alternatives would need to be conducted in compliance with applicable Federal laws, regulations and permits. Chapter 4 describes the resources at LANL, which are potentially addressed by these laws, regulations and permits and Chapter 5 discusses the potential impacts to those resources for each alternative. Consultations with applicable agencies and Federally-recognized American Indian Nations as required by these Federal laws and regulations are discussed in Section 6.5.

The major Federal laws and regulations, Executive Orders, and other requirements that currently apply or could in the future apply to the various alternatives analyzed in this SWEIS are identified in **Table 6–1**. For ease of identification, laws are identified in the table with a United States Code (U.S.C.) or Public Law citation; regulations are identified with a CFR citation; and Executive Orders are listed in italics. This table does not include DOE Orders, which are provided in Section 6.3, nor does it include State requirements, which are provided in Section 6.4.

American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996)—This Act reaffirms American Indian religious freedom under the First Amendment and sets the U.S. policy to protect and preserve the inherent and constitutional right of American Indians to believe, express, and exercise their traditional religions. The Act requires that Federal actions avoid interfering with access to sacred locations and traditional resources that are integral to the practice of religions.

Antiquities Act of 1906, as amended (16 U.S.C. 431 *et seq.*)—This Act protects historic and prehistoric ruins, monuments, and antiquities, including paleontological resources, on federally-controlled lands from appropriation, excavation, injury, and destruction without permission.

Archaeological and Historic Preservation Act of 1960, as amended (16 U.S.C. 469 *et seq.* 469c-1)—The purpose of this Act is to provide for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as the result of Federal actions.

Table 6–1 Potentially Applicable Environmental, Safety, and Health Laws, Regulations, and Executive Orders

<i>Laws, Regulations, Orders, Other Requirements</i>	<i>Citation</i>
Radioactive Materials and Waste Management	
Atomic Energy Act of 1954, as amended	42 U.S.C. 2011 <i>et seq.</i>
“Byproduct Material”	10 CFR 962
“Environmental Radiation Protection Standards for Management of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Materials”	40 CFR 191
Low-Level Radioactive Waste Policy Act of 1980, as amended	42 U.S.C. 2021 <i>et seq.</i>
Waste Isolation Pilot Plant Land Withdrawal Act, as amended	Public Law 102-579
Ecological Resources	
Bald and Golden Eagle Protection Act of 1973, as amended	16 U.S.C. 668 <i>et seq.</i>
Endangered Species Act of 1973, as amended	16 U.S.C. 1531 <i>et seq.</i>
Fish and Wildlife Coordination Act	16 U.S.C. 661 <i>et seq.</i>
<i>Invasive Species</i>	Executive Order 13112
Migratory Bird Treaty Act of 1918, as amended	16 U.S.C. 703 <i>et seq.</i>
<i>Protection of Wetlands</i>	Executive Order 11990
Cultural and Paleontological Resources	
American Indian Religious Freedom Act of 1978	42 U.S.C. 1996
Antiquities Act of 1906, as amended	16 U.S.C. 431 <i>et seq.</i>
Archaeological and Historic Preservation Act of 1960, as amended	16 U.S.C. 469 <i>et seq.</i>
Archaeological Resources Protection Act of 1979, as amended	16 U.S.C. 470aa <i>et seq.</i>
<i>Consultation and Coordination with Indian Tribal Governments</i>	Executive Order 13175
Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998	Public Law 105-119
<i>Indian Sacred Sites</i>	Executive Order 13007
Manhattan Project National Historical Park Study Act	Public Law 108-340
National Historic Preservation Act of 1966, as amended	16 U.S.C. 470 <i>et seq.</i>
<i>National Historic Preservation</i>	Executive Order 11593
Native American Graves Protection and Repatriation Act of 1990	25 U.S.C. 3001 <i>et seq.</i>
<i>Preserve America</i>	Executive Order 13287
“Protection of Historic and Cultural Properties”	36 CFR 800
Worker Safety and Health	
“Occupational Radiation Protection”	10 CFR 835
Occupational Safety and Health Act of 1970	29 U.S.C. 651 <i>et seq.</i>
<i>Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction</i>	Executive Order 12699
Radiological Safety Oversight and Radiation Protection	
“Nuclear Safety Management”	10 CFR 830
Transportation	
Hazardous Materials Transportation Act of 1975, as amended	49 U.S.C. 5101 <i>et seq.</i>
“Packaging and Transportation of Radioactive Material”	10 CFR 71
Emergency Planning, Pollution Prevention, and Conservation	
<i>Assignment of Emergency Preparedness Responsibilities</i>	Executive Order 12656
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (also known as Superfund)	42 U.S.C. 9601 <i>et seq.</i>

Laws, Regulations, Orders, Other Requirements	Citation
Emergency Planning and Community Right-to-Know Act	42 U.S.C. 11001 <i>et seq.</i>
<i>Energy Efficiency and Water Conservation at Federal Facilities</i>	Executive Order 12902
<i>Federal Compliance with Pollution Control Standards</i> , as amended by Executive Order 12580, <i>Superfund Implementation</i>	Executive Order 12088
<i>Federal Emergency Management</i> , as amended	Executive Order 12148
<i>Greening the Government through Efficient Energy Management</i>	Executive Order 13123
<i>Greening the Government through Leadership in Environmental Management</i>	Executive Order 13148
<i>Greening the Government through Waste Prevention, Recycling, and Federal Acquisition</i>	Executive Order 13101
Pollution Prevention Act of 1990	42 U.S.C. 13101 <i>et seq.</i>
<i>Proliferation of Weapons of Mass Destruction</i>	Executive Order 12938
<i>Right-to-Know Laws and Pollution Prevention Requirements</i>	Executive Order 12856
Environmental Justice and Protection of Children	
<i>Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations</i>	Executive Order 12898
<i>Protection of Children from Environmental Health Risks and Safety Risks</i>	Executive Order 13045
Environmental Quality	
“Council on Environmental Quality National Environmental Policy Act Regulations”	40 CFR 1500 <i>et seq.</i>
National Environmental Policy Act of 1969	42 U.S.C. 4321 <i>et seq.</i>
“National Environmental Policy Act Implementing Procedures”	10 CFR 1021
<i>Protection and Enhancement of Environmental Quality</i>	Executive Order 11514
Air Quality and Noise	
Clean Air Act of 1970, as amended	42 U.S.C. 7401 <i>et seq.</i>
“National Emission Standards for Hazardous Air Pollutants”	40 CFR 61
“National Emission Standards for Hazardous Air Pollutants for Source Categories”	40 CFR 63
Noise Control Act of 1972, as amended	42 U.S.C. 4901 <i>et seq.</i>
Water Resources	
Clean Water Act of 1972, as amended	33 U.S.C. 1251 <i>et seq.</i>
“Compliance with Floodplain/Wetlands Environmental Review Requirements”	10 CFR 1022
“EPA-Administered Permit Programs: The National Pollutant Discharge Elimination System”	40 CFR 122
<i>Floodplain Management</i>	Executive Order 11988
“National Primary Drinking Water Regulations”	40 CFR 141
Safe Drinking Water Act of 1974, as amended	42 U.S.C. 300(f) <i>et seq.</i>
Hazardous Waste and Materials Management	
Federal Facility Compliance Act of 1992	42 U.S.C. 6961 <i>et seq.</i>
“Select Agents and Toxins”	42 CFR 73 (see Appendix C of this SWEIS)
Solid Waste Disposal Act of 1965, as amended	42 U.S.C. 6901 <i>et seq.</i>
Toxic Substances Control Act of 1976	15 U.S.C. 2601 <i>et seq.</i>

U.S.C. = *United States Code*, CFR = *Code of Federal Regulations*.

Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa *et seq.*)—

This Act requires a permit for any excavation or removal of archaeological resources from Federal or American Indian lands. Excavation must be undertaken for the purpose of furthering archaeological knowledge in the public interest, and resources removed are to remain the property of the United States. The law requires that whenever any Federal agency finds that its activities may cause irreparable loss or destruction of significant scientific, prehistoric, or archaeological data, the agency must notify the U.S. Department of the Interior and may request that the Department of Interior undertake the recovery, protection, and preservation of such data. Consent must be obtained from the American Indian Tribe or the Federal agency having authority over the land on which a resource is located before issuance of a permit; the permit must contain terms and conditions requested by the Tribe or Federal agency.

Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*) as amended by the Price-Anderson Act—The Act provides fundamental jurisdictional authority to DOE and the U.S. Nuclear Regulatory Commission (NRC) over governmental and commercial use of nuclear materials. The Atomic Energy Act authorizes DOE to establish standards to protect health or minimize dangers to life or property for activities under DOE jurisdiction. DOE has issued a series of Departmental Orders to establish an extensive system of standards and requirements to ensure safe operation of DOE facilities (see Section 6.3).

DOE regulations are found in Title 10 of the CFR. The DOE regulations that are the most relevant to radioactive materials and waste management include:

- “Nuclear Safety Management” (10 CFR 830)
- “Occupational Radiation Protection” (10 CFR 835)
- “Byproduct Material” (10 CFR 962)

The Atomic Energy Act also gives EPA the authority to develop generally applicable standards for protection of the general environment from radioactive materials. EPA has promulgated several regulations under this authority. The EPA regulation that is relevant to radioactive waste and materials management activities addressed by this SWEIS is the “Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes” (40 CFR 191). This regulation establishes radiation standards for the management and storage of spent nuclear fuel, high-level radioactive waste, and transuranic waste at facilities regulated by NRC or Agreement States and radiation standards for the management and storage of spent nuclear fuel, high-level radioactive waste, and transuranic waste at disposal facilities operated by DOE that are not regulated by NRC or Agreement States. The regulation also establishes limitations on radiation doses that might occur after closure of the disposal system. These standards include both individual protection requirements and groundwater protection standards.

The Price-Anderson Act – signed into law in 1957 as an amendment to the Atomic Energy Act of 1954—provides for payment of public liability claims in the event of a nuclear incident. The following are the key features of this act:

- Assures the availability of billions of dollars to compensate members of the public who suffer a loss as the result of a nuclear incident
- Establishes a simplified claim process for the public to expedite recovery for losses
- Provides for immediate emergency reimbursement for costs associated with any evacuation that may be ordered
- Establishes liability limits for each nuclear incident involving commercial nuclear energy and government use of nuclear materials, and provides a guarantee that the Federal Government will review the need for compensation beyond that provided (NEI 2005).

Bald and Golden Eagle Protection Act of 1973, as amended (16 U.S.C. 668 *et seq.*)—The Bald and Golden Eagle Protection Act, as amended, makes it unlawful to take, pursue, molest, or disturb bald (American) and golden eagles, their nests, or their eggs anywhere in the United States. A permit must be obtained from the U.S. Department of the Interior to relocate a nest that interferes with resource development or recovery operations.

Clean Air Act of 1970, as amended (42 U.S.C. 7401 *et seq.*)—The Clean Air Act is intended to “protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” Section 118 of the Clean Air Act (42 U.S.C. 7418) requires that each Federal agency with jurisdiction over any property or facility engaged in any activity that might result in the discharge of air pollutants comply with “all Federal, State, interstate, and local requirements” with regard to the control and abatement of air pollution.

Section 109 of the Clean Air Act (42 U.S.C. 7409 *et seq.*) directs EPA to set national ambient air quality standards for criteria pollutants. EPA has identified and set national ambient air quality standards under 40 CFR 50 for the following criteria pollutants: particulate matter, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead. Section 111 of the Clean Air Act (42 U.S.C. 7411) requires establishment of national standards of performance for new or modified stationary sources of atmospheric pollutants. Section 160 of the Clean Air Act (42 U.S.C. 7470 *et seq.*) requires that specific emission increases be evaluated prior to permit approval to prevent significant deterioration of air quality. Section 112 of the Clean Air Act (42 U.S.C. 7412) requires specific standards for releases of hazardous air pollutants (including radionuclides).

Emissions of air pollutants are regulated by EPA under 40 CFR 50 through 99. Emissions of radionuclides and hazardous air pollutants from DOE facilities are regulated under the National Emissions Standards for Hazardous Air Pollutants Program (40 CFR 61 and 40 CFR 63, respectively).

Clean Water Act of 1972, as amended (33 U.S.C. 1251 *et seq.*)—The Clean Water Act, which amended the Federal Water Pollution Control Act, was enacted to “restore and maintain the

chemical, physical, and biological integrity of the Nation's water." The Clean Water Act prohibits the "discharge of toxic pollutants in toxic amounts" to navigable waters of the United States. Section 313 of the Clean Water Act requires all branches of the Federal Government engaged in any activity that might result in a discharge of runoff of pollutants to surface waters to comply with Federal, State, interstate, and local requirements.

Section 404 of the Clean Water Act gives the U.S. Army Corps of Engineers permitting authority over activities that discharge dredge or fill materials into waters of the United States, including wetlands.

The Clean Water Act also provides guidelines and limitations for effluent discharges from point-source discharges and establishes the National Pollutant Discharge Elimination System (NPDES) permit program. The NPDES program is administered by EPA, pursuant to regulations in 40 CFR 122 *et seq.*, and authority may be delegated to States. Sections 401 through 405 of the Water Quality Act of 1987 added Section 402(p) to the Clean Water Act, requiring that EPA establish regulations for permits for stormwater discharges associated with industrial activities, including construction activities that could disturb five or more acres. Stormwater provisions of the NPDES program are set forth at 40 CFR 122.26. Permit modifications are required if discharge effluent is altered. The State of New Mexico is now seeking authorization for the NPDES program, so that it will have authority to administer the program instead of EPA. Currently, New Mexico is not authorized, and EPA Region 6 administers all LANL NPDES issues and permits. The State is expecting to be authorized by the end of 2006.

Many water related permits for LANL have been issued or are awaiting approval (see **Table 6-2**). The EPA and DOE entered into a Federal Facility Compliance Agreement (Agreement) pursuant to the Clean Water Act (EPA 2005a). The purpose of the Agreement is to establish a compliance program for the regulation of stormwater discharges from Solid Waste Management Units and Areas of Concern at LANL until such time as those sources are regulated by an individual stormwater permit issued by EPA pursuant to the NPDES. The purpose of the compliance program is to provide a schedule to ensure compliance with the NPDES stormwater-permitting program. The scope of this Agreement is limited to providing a compliance program for the regulation of stormwater discharges from Solid Waste Management Units (SWMUs) and Areas of Concern at LANL in lieu of LANL's Stormwater Multi-Sector General Permit (EPA 2005a).

The discharge of stormwater at the LANL is regulated by NPDES Stormwater Multi-Sector General Permit Numbers NMR05A734 (University of California) and NMR05A735 (DOE), (the "General Permit"), which became effective on December 23, 2000, pursuant to 65 *Federal Register* (FR) 64746 (October 30, 2000). The point source discharges of stormwater regulated by the General Permit include LANL's SWMUs (EPA 2005a).

Since 2003, the General Permit has been in transition. Stormwater discharges from LANL SWMUs ultimately will be regulated under an individual NPDES permit specific to the SWMUs. LANL submitted the first part of the individual permit application in late 2004. When granted, this individual permit will replace existing SWMU coverage under the General Permit (see Table 6-2).

Table 6–2 Federal Permits

<i>Category</i>	<i>Approved Activity</i>	<i>Issue Date</i>	<i>Expiration Date</i>
Clean Water Act/NPDES - Permit Number NM0028355	Discharge of industrial and sanitary liquid effluents. (This is a single permit covering many of LANL's industrial and sanitary discharges. The permit covers 17 total outfalls.)	February 1, 2001	January 31, 2005 (Permit has been administratively continued.)
Clean Water Act/NPDES Multi-Sector General Permit Number NMR05A734 (University of California) and NMR05A735 (DOE)	Multi-Sector General Permit-Stormwater discharges from industrial activities.	October 30, 2000	October 30, 2005
Clean Water Act/NPDES	General Permit for Stormwater discharges from construction activities	Varies. A new General Construction Permit will be needed after 2008.	July 1, 2008
Clean Water Act Sections 404/401	Individual Dredge and Fill permits for work within perennial, intermittent, or ephemeral watercourses.	Varies	Varies
Toxic Substances Control Act Disposal Authorization	Disposal of polychlorinated biphenyls at Technical Area 54, Area G	June 25, 1996	June 25, 2001 (Permit has been administratively continued.)

NPDES = National Pollutant Discharge Elimination System.

Source: EPA 2005a, LANL 2004f.

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601 *et seq.*) (also known as Superfund)—CERCLA provides among other things, (1) a program for emergency response and reporting of a release or threat of release of a hazardous substance to the environment; and (2) a statutory framework for the remediation of hazardous substance releases from private, state and Federal sites. Using the Hazard Ranking System, contaminated sites are ranked and may be included on the National Priorities List. Section 120 of CERCLA specifies requirements for investigations, remediation, and natural resource restoration, as necessary, at Federal facilities, and also provides reporting requirements for hazardous substance contamination on properties to be transferred. LANL is not on the National Priorities List. Potential release sites at LANL are investigated and remediated under State authorities (see Section 6.4 for further discussion).

Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105-119)—Section 632 of the Act directed the Secretary of Energy to identify, and convey to the Incorporated County of Los Alamos, New Mexico, or to the designee of Los Alamos County, and transfer to the Secretary of the Interior in trust for the Pueblo of San Ildefonso, parcels of land under the jurisdictional administrative control of the Secretary at or in the vicinity of LANL that meet certain identified criteria. DOE prepared the *Final Environmental Impact Statement for the Conveyance and Transfer of Certain Land Tracts Administered by the U.S. Department of Energy and Located at Los Alamos National Laboratory, Los Alamos and Santa Fe Counties, New Mexico* (DOE 1999d) to examine potential environmental impacts associated with the conveyance and transfer of identified land parcels. A Record of Decision for this action was issued in December 1999. Remedial actions (required in some parcels) and conveyances and transfers are ongoing.

Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 *et seq.*)—This amendment to CERCLA requires that facilities provide notice to, and coordinate emergency planning with communities and government agencies concerning inventories and any unplanned releases of specific hazardous chemicals. EPA implements this Act under regulations found in 40 CFR 355, 370, and 372. Under Subtitle A of this Act, Federal facilities are required to provide information to and coordinate with local and State emergency response planning authorities, to ensure that emergency plans are sufficient to respond to unplanned releases of hazardous substances. Implementation of the provisions of this Act at LANL began voluntarily in 1987, and chemical inventories and emissions have been reported annually since 1988.

Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)—This Act is intended to prevent the further decline of endangered and threatened species and to restore these species and their habitats. Section 7 of the Act requires Federal agencies having reason to believe that a prospective action may affect an endangered or threatened species or its habitat to consult with the U.S. Fish and Wildlife Service of the U.S. Department of the Interior or the National Marine Fisheries Service of the U.S. Department of Commerce to ensure that the action does not jeopardize the species or destroy its habitat. If, despite reasonable and prudent measures to avoid or minimize such impacts, the species or its habitat would be jeopardized by the action, a review process is specified to determine whether the action may proceed as an incidental taking (50 CFR 17).

Federal Facility Compliance Act of 1992 (42 U.S.C. 6961 *et seq.*)—The Federal Facility Compliance Act, enacted on October 6, 1992, amended Resource Conservation and Recovery Act (RCRA). The Act made Federal facilities subject to potential fines and penalties for violations of RCRA, the law that sets requirements for the management of hazardous waste. Prior to its passage, mixed waste stored at DOE sites was generally not in compliance with RCRA mixed waste land-disposal restrictions because of a lack of treatment options. The Act required DOE to: (1) prepare and submit a national inventory report identifying its mixed waste volume, characteristics, treatment capacity and available technologies; and (2) prepare and submit (to the appropriate State or EPA regulators) Site Treatment Plans for developing or using the needed treatment capacity, and provide schedules for treating the mixed waste at each DOE site.

LANL's approved Site Treatment Plan is enforced by a Compliance Order issued by the New Mexico Environment Department in October 1995. It is available for review at the DOE Headquarters reading room, the DOE Center for Environmental Management Information, and the LANL reading room (see Section 6.4 for further discussion).

Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*)—The Fish and Wildlife Coordination Act promotes effective planning and cooperation between Federal, State, public, and private agencies for the conservation and rehabilitation of the Nation's fish and wildlife and authorizes the U.S. Department of the Interior to provide assistance. This Act requires consultation with the U.S. Fish and Wildlife Service on the possible effects to wildlife from construction or projects or activities affecting bodies of water in excess of 10 acres (approximately 4 hectares) in surface area. This Act also requires consultation with the head of the State agency that administers wildlife resources in the affected State.

Hazardous Materials Transportation Act of 1975, as amended (49 U.S.C. 5101 *et seq.*)—The Hazardous Materials Transportation Act of 1975, as amended, requires the U.S. Department of Transportation to prescribe uniform national regulations for transportation of hazardous materials (including radioactive materials). Most State and local regulations regarding such transportation that are not substantively the same as the U.S. Department of Transportation regulations are preempted (49 U.S.C. 5125). This, in effect, allows State and local governments to enforce only the Federal regulations, not to change or expand upon them.

This program is administered by the Research and Special Programs Administration of U.S. Department of Transportation, which, when covering the same activities, coordinates its regulations with NRC (under the Atomic Energy Act) and EPA (under RCRA). The U.S. Department of Transportation regulations, which may be found under 49 CFR 171 through 178 and 49 CFR 383 through 397, contain requirements for identifying a material as hazardous or radioactive. These regulations interface with the NRC regulations for identifying material, but U.S. Department of Transportation hazardous material regulations govern the hazard communication (such as marking, labeling, vehicle placarding, and emergency response information) and shipping requirements. Requirements for transport by rail, air, and public highway are included. In addition, EPA regulations at 40 CFR 262 apply to off-site transportation of hazardous wastes from LANL.

Public access to many portions of the LANL facility is controlled at all times through the use of gates and guards. On-site transportation of hazardous materials, wastes, and contaminated equipment that is conducted entirely on DOE property is subject to applicable DOE directives and safety requirements set forth in 10 CFR 830, Subpart B. Off-site transportation of hazardous materials, wastes, and contaminated equipment from LANL over public highways is subject to applicable U.S. Department of Transportation and EPA regulations, as well as to applicable DOE directives.

The NRC Packaging and Transportation of Radioactive Material (10 CFR 71) regulations include detailed packaging design requirements and package certification testing requirements. Complete documentation of design and safety analysis, and the results of the required testing, are submitted to NRC to certify the package for use. This certification testing involves the following components: heat, physical drop onto an unyielding surface, water submersion, puncture by dropping the package onto a steel bar, and gas tightness.

Low-Level Radioactive Waste Policy Act of 1980, as amended (42 U.S.C. 2021 *et seq.*)—This Act amended the Atomic Energy Act to specify that the Federal Government is responsible for disposal of low-level radioactive waste generated by certain of its activities, and that each State is responsible for disposal of other low-level radioactive waste generated within its borders. It provides for and encourages interstate compacts to carry out State responsibilities. As a result of this Act, low-level radioactive waste owned or generated by DOE remains the responsibility of the Federal government.

Manhattan Project National Historical Park Study Act (Public Law 108-340)—This Act was written to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System (October 18, 1998).

Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 *et seq.*)—The Migratory Bird Treaty Act, as amended, is intended to protect birds that have common migration patterns between the United States and Canada, Mexico, Japan, and Russia. It regulates the harvest of migratory birds by specifying conditions such as mode of harvest, hunting seasons, and bag limits. The Act stipulates that it is unlawful, unless permitted by regulations, to “pursue, hunt, take, capture, kill, attempt to take, capture or kill, possess, ...any migratory bird...or any part, nest, or egg of any such bird.” Although no permit for this project is required under the Act, DOE is required to consult with the U.S. Fish and Wildlife Service regarding impacts on migratory birds and to avoid or minimize these effects in accordance with the U.S. Fish and Wildlife Service Mitigation Policy. A split of authority currently exists between Federal courts as to whether this Act applies to Federal agencies.

National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*)—The purposes of NEPA of 1969, as amended, are to: (1) declare a national policy that will encourage productive and enjoyable harmony between man and his environment, (2) promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man, (3) enrich the understanding of the ecological systems and natural resources important to the nation, and (4) establish a Council on Environmental Quality (CEQ). NEPA establishes a national policy requiring that Federal agencies consider the environmental impacts of major Federal actions significantly affecting the quality of the human environment before making decisions and taking actions to implement those decisions. Implementation of NEPA requirements in accordance with CEQ regulations (40 CFR 1500-1508) can result in a categorical exclusion, an environmental assessment and finding of no significant impact, or an environmental impact statement (EIS). This SWEIS has been prepared in accordance with NEPA requirements, CEQ regulations (40 CFR 1500 *et seq.*), and DOE provisions for implementing the procedural requirements of NEPA (10 CFR 1021; DOE Order 451.1B, Change 1). It discusses reasonable alternatives and their potential environmental consequences.

National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*)—The Act provides that sites with significant national historic value be placed on the National Register of Historic Places, maintained by the Secretary of the Interior. The major provisions of the act for DOE consideration are Sections 106 and 110. Both sections aim to ensure that historic properties are appropriately considered in planning Federal initiatives and actions. Section 106 is a specific, issue-related mandate to which Federal agencies must adhere. It is a reactive mechanism driven by a Federal action. Section 110, in contrast, sets out broad Federal agency responsibilities with respect to historic properties. It is a proactive mechanism with emphasis on ongoing management of historic preservation sites and activities at Federal facilities. No permits or certifications are required under the Act.

Section 106 requires the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or Federally-assisted undertaking to ensure compliance with the provisions of the Act. It compels Federal agencies to “take into account” the effect of their projects on historical and archaeological resources and to give the Advisory Council on Historic Preservation the opportunity to comment on such effects. Section 106 mandates consultation during Federal actions if the undertaking has the potential to affect a historic property. This consultation normally involves State or Tribal Historic Preservation Officers, or both, and may include other organizations and individuals such as local governments and Native American tribes. If an

adverse effect is found, the consultation often ends with the execution of a memorandum of agreement that states how the adverse effect will be resolved.

The regulations implementing Section 106, found in 36 CFR 800, were revised on December 12, 2000 to modify the process by which Federal agencies consider the effects of their undertakings on historic properties and provides the Advisory Council on Historic Preservation with a reasonable opportunity to comment with regard to such undertakings, as required by Section 106 of the Act. In promulgating the new regulations, the Council has sought to better balance the interests and concerns of various users of the Section 106 process, including Federal agencies, State Historic Preservation Officers, Tribal Historic Preservation Officers, Native Americans and Native Hawaiians, industry, and the public.

Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001 *et seq.*)—

This act establishes a means for Native Americans to request the return or repatriation of human remains and other cultural items presently held by Federal agencies or Federally-assisted museums or institutions. The Act also contains provisions regarding the intentional excavation and removal of, inadvertent discovery of, and illegal trafficking in Native American human remains and cultural items. Major actions under this law include: (a) establishing a review committee with monitoring and policymaking responsibilities; (b) developing regulations for repatriation, including procedures for identifying lineal descent or cultural affiliation needed for claims; (c) providing oversight of museum programs designed to meet the inventory requirements and deadlines of this law; and (d) developing procedures to handle unexpected discoveries of graves or grave goods during activities on Federal or Tribal lands. All Federal agencies that manage land or are responsible for archaeological collections obtained from their lands or generated by their activities must comply with the act. DOE managers of ground disturbing activities on Federal and Tribal lands are to be aware of the statutory provisions treating inadvertent discoveries of Native American remains and cultural objects. Regulations implementing the Act are found at 43 CFR 10.

Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*)—Section 4 of the Noise Control Act of 1972, as amended, directs all Federal agencies to carry out “to the fullest extent within their authority” programs within their jurisdictions in a manner that furthers a national policy of promoting an environment free from noise jeopardizing health and welfare. Federal, State, and local agencies enforce the standards and requirements of this Act to regulate noise at facilities such as LANL. DOE must comply with the Act for any of the activities being considered under this SWEIS.

Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*)—Section 4(b)(1) of the Occupational Safety and Health Act exempts DOE and its contractors from the occupational safety requirements of the Occupational Safety and Health Administration. However, 29 U.S.C. 668 requires Federal agencies to establish their own occupational safety and health programs for their places of employment, consistent with Occupational Safety and Health Administration standards. DOE Order 440.1A, *Worker Protection Management for DOE Federal and Contractor Employees*, states that DOE will implement a written worker protection program that: (1) provides a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to their employees, and (2) integrates all requirements contained in paragraphs 4a to 4l of DOE Order 440.1A; 29 CFR 1960,

“Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters;” and other related site-specific worker protection activities.

Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*)—The Pollution Prevention Act establishes a national policy for waste management and pollution control. Source reduction is given first preference, followed by environmentally safe recycling, with disposal or releases to the environment as a last resort. In response to the policies established by the Pollution Prevention Act, DOE committed to participation in the Superfund Amendments and Reauthorization Act, Section 313, EPA 33/50 Pollution Prevention Program. The goal for facilities involved in compliance with Section 313 was to achieve a 33-percent reduction (from a 1993 baseline) in the release of 17 priority chemicals by 1997. On November 12, 1999, then-U.S. Secretary of Energy Bill Richardson established 14 pollution prevention and energy efficiency goals for DOE. These goals were designed to build environmental accountability and stewardship into DOE’s decisionmaking process. Under these goals, DOE will strive to minimize waste and maximize energy efficiency as measured by continuous cost-effective improvements in the use of materials and energy, using the years 2005 and 2010 as interim measurement points.

Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300(f) *et seq.*)—The primary objective of the Safe Drinking Water Act is to protect the quality of public drinking water supplies and sources of drinking water. The implementing regulations, administered by EPA unless delegated to States, establish standards applicable to public water systems. These regulations include maximum contaminant levels (including those for radioactivity) in public water systems, which are defined as water systems that have at least 15 service connections used by year-round residents or regularly serve at least 25 year-round residents. The EPA regulations implementing the Safe Drinking Water Act are found in 40 CFR 141 through 149. For radioactive material, the regulations specify that the average annual concentration of beta particles and photon energy from manmade radionuclides in drinking water, as delivered to the user by such a system, shall not produce a dose equivalent to the total body or an internal organ greater than 4 millirem per year. They further specify a concentration limit for gross alpha particle activity (excluding radon and uranium) of 15 picocuries per liter and for uranium of 0.03 milligrams per liter (40 CFR 141.66). Other programs established by the Safe Drinking Water Act include the Sole Source Aquifer Program, the Wellhead Protection Program, and the Underground Injection Control Program.

Solid Waste Disposal Act of 1965, as amended by the Resource Conservation and Recovery Act (RCRA) of 1976 and the Hazardous and Solid Waste Amendments of 1984

(42 U.S.C. 6901 *et seq.*)—The Solid Waste Disposal Act of 1965, as amended, governs the transportation, treatment, storage, and disposal of hazardous waste and nonhazardous waste (that is, municipal solid waste). Under the RCRA of 1976, which amended the Solid Waste Disposal Act of 1965, EPA defines and identifies hazardous waste; establishes standards for its transportation, treatment, storage, and disposal; and requires permits for persons engaged in hazardous waste activities. Section 3006 of RCRA (42 U.S.C. 6926) allows states to establish and administer these permit programs with EPA approval.

The EPA regulations implementing RCRA are found in 40 CFR 260 through 283. The New Mexico Environment Department (NMED) is authorized to administer the RCRA program in New Mexico, and issued LANL’s RCRA operating permit (see Section 6.4). Regulations

imposed on a generator or on a treatment, storage, or disposal facility vary according to the type and quantity of hazardous waste generated, treated, stored, or disposed, and the methods of treatment, storage, and disposal.

Toxic Substances Control Act of 1976 (15 U.S.C. 2601 *et seq.*)—The Toxic Substances Control Act provides EPA with the authority to require testing of chemical substances entering the environment and to regulate them as necessary. The law complements and expands existing toxic substance laws, such as Section 112 of the Clean Air Act and Section 307 of the Clean Water Act. The Act requires compliance with inventory reporting and chemical control provisions of the legislation to protect the public from the risks of exposure to chemicals.

The Act also imposes strict limitations on the use and disposal of polychlorinated biphenyls, chlorofluorocarbons, asbestos, dioxins, certain metal-working fluids, and hexavalent chromium. EPA issued the disposal authorization documents to LANL for management of its polychlorinated biphenyls waste disposal facility at Technical Area 54.

Waste Isolation Pilot Plant Land Withdrawal Act (Public Law 102-579) and the Waste Isolation Pilot Plant Land Withdrawal Act Amendments (Public Law 104-201)—The Waste Isolation Pilot Plant Land Withdrawal Act withdrew land from the public domain for the purpose of creating and operating the Waste Isolation Pilot Plant (WIPP), the geologic repository in New Mexico designated as the national disposal site for defense transuranic waste. The Act also defines the characteristics and amount of waste that will be disposed of at the facility. The amendments to the Act exempt waste to be disposed of at WIPP from the RCRA land disposal restrictions. Prior to sending any transuranic waste from LANL to WIPP, DOE would have to make a determination that the waste meets all statutory and regulatory requirements for disposal at WIPP.

6.2 Executive Orders

This section identifies environmental-, health-, and safety-related Executive Orders applicable to LANL operations. Activities under all alternatives would need to be conducted in compliance with applicable Executive Orders. Chapter 4 describes the resources at LANL, which are potentially addressed by Executive Orders and Chapter 5 discusses the potential impacts to those resources for each alternative. Consultations with applicable agencies and Federally-recognized American Indian Nations as required by these Executive Orders are discussed in Section 6.5.

Executive Order 11514, *Protection and Enhancement of Environmental Quality* (March 5, 1970)—This Executive Order requires Federal agencies to continually monitor and control their activities to: (1) protect and enhance the quality of the environment, and (2) develop procedures to ensure the fullest practicable provision of timely public information and understanding of the Federal plans and programs that may have potential environmental impact so that views of interested parties can be obtained. DOE has issued regulations (10 CFR 1021) and DOE Order 451.1B for compliance with this Executive Order.

Executive Order 11593, *National Historic Preservation* (May 13, 1971)—This Order directs Federal agencies to locate, inventory, and nominate properties under their jurisdiction or control to the National Register of Historic Places, if those properties qualify. This process requires

DOE to provide the Advisory Council on Historic Preservation the opportunity to comment on the possible impacts of proposed activities on any potential eligible or listed resources.

Executive Order 11990, *Protection of Wetlands* (May 24, 1977)—This Order (implemented by DOE in 10 CFR 1022) requires Federal agencies to avoid any short- or long-term adverse impacts on wetlands wherever there is a practicable alternative. Each agency must also provide opportunity for early public review of any plans or proposals for new construction in wetlands.

Executive Order 11988, *Floodplain Management* (May 24, 1977)—This Order (implemented by DOE in 10 CFR 1022) requires Federal agencies to establish procedures to ensure that the potential effects of flood hazards and floodplain management are considered for any action undertaken in a floodplain, and that floodplain impacts be avoided to the extent practicable.

Executive Order 12088, *Federal Compliance with Pollution Control Standards*, (October 13, 1978) as amended by Executive Order 12580, *Superfund Implementation* (January 23, 1987)—This Order directs Federal agencies to comply with applicable administrative and procedural pollution control standards established by, but not limited to, the Clean Air Act, the Noise Control Act, the Clean Water Act, the Safe Drinking Water Act, the Toxic Substances Control Act, and RCRA.

Executive Order 12148, *Federal Emergency Management* (July 20, 1979), as amended by the Homeland Security Act of 2002 (Public Law 107-296) and Section 301 of Title 3 U.S.C.—This Order transfers functions and responsibilities associated with Federal emergency management to the Director of the Federal Emergency Management Agency. The Order assigns the Director the responsibility to establish Federal policies for, and to coordinate all civil defense and civil emergency planning, management, mitigation, and assistance functions of, Executive agencies. The amendment replaces the name Federal Emergency Management Agency wherever it appears with the name Department of Homeland Security.

Executive Order 12656, *Assignment of Emergency Preparedness Responsibilities* (November 18, 1988)—This Order assigns emergency preparedness responsibilities to Federal Departments and agencies.

Executive Order 12699, *Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction* (January 5, 1990)—This Order requires Federal agencies to reduce risks to occupants of buildings owned, leased, or purchased by the Federal Government or buildings constructed with Federal assistance and to persons who would be affected by failures of Federal buildings in earthquakes; to improve the capability of existing Federal buildings to function during or after an earthquake; and to reduce earthquake losses of public buildings, all in a cost-effective manner. Each Federal agency responsible for the design and construction of a Federal building shall ensure that the building is designed and constructed in accordance with appropriate seismic design and construction standards.

Executive Order 12856, *Right-to-Know Laws and Pollution Prevention Requirements*

(August 3, 1993)—Executive Order 12856 directs Federal agencies to reduce and report toxic chemicals entering any waste stream; improve emergency planning, response, and accident notification; and to meet the requirements of the Emergency Planning and Community Right-to-Know Act.

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority*

***Populations and Low-Income Populations* (February 11, 1994)**—This Order requires each Federal agency to identify and address disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.

The CEQ, which oversees the Federal Government’s compliance with Executive Order 12898 and NEPA, has developed guidelines to assist Federal agencies in incorporating the goals of Executive Order 12898 into the NEPA process. This guidance, published in 1997, is intended to “...assist Federal agencies with their NEPA procedures so that environmental justice concerns are effectively identified and addressed.” As part of this process, DOE conducted an analysis to determine whether implementing any of the proposed alternatives would result in disproportionately high or adverse impacts on minority and low-income populations. The results of this analysis are discussed in the environmental justice sections of Chapter 4 of this SWEIS for each of the alternatives under consideration.

Executive Order 12902, *Energy Efficiency and Water Conservation at Federal Facilities*

(March 8, 1994)—This Order requires Federal agencies to develop and implement a program for conservation of energy and water resources. As part of this program, agencies are required to conduct comprehensive facility audits of their energy and water use.

Executive Order 12938, *Proliferation of Weapons of Mass Destruction*

(November 14, 1994)—This Order states that the proliferation of nuclear, biological, and chemical weapons (“weapons of mass destruction”) and the means of delivering such weapons constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and that a national emergency would be declared to deal with that threat.

Executive Order 13007, *Indian Sacred Sites* (May 24, 1996)—This Order directs Federal

agencies, to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions, to: (1) accommodate access to and ceremonial use of American Indian sacred sites by their religious practitioners, and (2) avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies are to maintain the confidentiality of sacred sites.

Executive Order 13045, *Protection of Children from Environmental Health Risks and Safety*

***Risks* (April 21, 1997), as amended by Executive Order 13229 (October 9, 2001)**—This Order requires each Federal agency to make it a high priority to identify and assess environmental health risks and safety risks that may disproportionately affect children and to ensure that its policies, programs, activities, and standards address disproportionate risks to children that result from environmental health risks or safety risks.

Executive Order 13101, *Greening the Government through Waste Prevention, Recycling, and Federal Acquisition* (September 14, 1998)—This Order requires each Federal agency to incorporate waste prevention and recycling in its daily operations and work to increase and expand markets for recovered materials. This Order states that it is national policy to prefer pollution prevention, whenever feasible. Pollution that cannot be prevented should be recycled; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner. Disposal should be employed only as a last resort.

Executive Order 13112, *Invasive Species* (February 3, 1999)—This Order requires Federal agencies to prevent the introduction of invasive species, to provide for their control, and to minimize their economic, ecological, and human health impacts.

Executive Order 13123, *Greening the Government through Efficient Energy Management* (June 8, 1999)—This Order sets goals for agencies for reducing greenhouse gas emissions from facility energy use, reducing energy consumption per gross square foot of facilities, reducing energy consumption per gross square foot or unit of production, expanding use of renewable energy, reducing the use of petroleum within facilities, reducing source energy use, and reducing water consumption and associated energy use.

Executive Order 13148, *Greening the Government through Leadership in Environmental Management* (April 21, 2000)—This Order requires agencies to integrate environmental accountability into day-to-day decisionmaking and long-term planning processes. The Order sets goals for implementing environmental management systems, environmental audits, reporting to the public of pollution releases, pollution prevention or reduction at the source, reducing toxic releases and transfers of toxic chemicals reducing use of toxic chemicals and hazardous substances reducing generation of hazardous and radioactive waste types, phasing out the use of Class I ozone-depleting substances, and promoting environmentally sound landscaping practices.

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000)—This Order supplements the Executive Memorandum (dated April 29, 1994) entitled “Government-to-Government Relations with Native American Tribal Governments” and states that each Executive Department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with Tribal Governments prior to taking actions that affect Federally-recognized Tribal Governments. This Order also states that each Executive Department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on Tribal trust resources and assure that Tribal Government rights and concerns are considered during the development of such plans, projects, programs, and activities.

Executive Order 13287, *Preserve America* (March 3, 2003)—The goals of the initiative addressed by this Order include a greater shared knowledge about the nation's past, strengthened regional identities and local pride, increased local participation in preserving the country's cultural and natural heritage assets, and support for the economic vitality of our communities. The Order establishes Federal policy to provide leadership in preserving America's heritage by actively advancing the protection, enhancement, and contemporary use of the historic properties owned by the Federal Government, and by promoting intergovernmental cooperation and partnerships for the preservation and use of historic properties.

6.3 Applicable DOE Orders

The Atomic Energy Act authorizes DOE to establish standards to protect health and minimize the dangers to life or property from activities under DOE's jurisdiction. Through a series of DOE Orders and regulations, an extensive system of standards and requirements has been established to ensure safe operation of DOE facilities. A number of DOE Orders have been issued in support of environmental, safety, and health programs. Many of these DOE Orders have been revised and reorganized to reduce duplication and eliminate obsolete provisions. The new DOE Directives System is organized by series, with each Order identified by three digits, and is intended to include all DOE Orders, policies, manuals, requirement documents, notices, and guides. Existing DOE Orders (identified by four digits) are expected to be revised and converted to the new DOE numbering system. The major DOE Orders pertaining to the alternatives in this SWEIS are listed in **Table 6-3**.

DOE Order 151.1, *Comprehensive Emergency Management System* (November 2, 2005)—

This Order establishes policy to assign and describe roles and responsibilities for the DOE Emergency Management System. The Emergency Management System provides the framework for development, coordination, control, and direction of all emergency planning, preparedness, readiness assurance, response, and recovery actions. The Emergency Management System applies to DOE and to NNSA.

DOE Order 231.1A, *Environment, Safety, and Health Reporting* (August 19, 2003;

Change 1, June 3, 2004)—This Order establishes responsibilities and requirements to ensure timely collection, reporting, analysis, and dissemination of information on environment, safety, and health issues as required by law or regulations or as needed to ensure that DOE and NNSA are kept fully informed on a timely basis about events that could adversely affect the health and safety of the public or the workers, the environment, the intended purpose of DOE facilities, or the credibility of DOE.

DOE Order 413.3, *Project Management for the Acquisition of Capital Assets*

(October 13, 2000; Change 1, January 3, 2005)—This Order provides DOE, including NNSA, project management direction for the acquisition of capital assets that are delivered on schedule, within budget, and fully capable of meeting mission performance and environmental, safety, and health standards.

DOE Order 414.1C, *Quality Assurance* (June 17, 2005)—The objectives of this Order are to ensure that DOE, including NNSA, products and services meet or exceed customers' expectations and to achieve quality assurance for all work based upon the following principles:

- That quality is assured and maintained through a single, integrated, effective quality assurance program (management system);
- That management support for planning, organization, resources, direction, and control is essential to quality assurance;

Table 6–3 Applicable DOE Orders and Directives (as of January 11, 2006)

<i>DOE Order/Number</i>	<i>Subject (date)</i>
Leadership/Management/Planning	
O 151.1C	Comprehensive Emergency Management System (10/29/03)
Information and Analysis	
O 231.1A	Environment, Safety, and Health Reporting (08/19/03; Change 1, 06/03/04)
Work Process	
O 413.3	Project Management for the Acquisition of Capital Assets (10/13/00; Change 1, 01/03/05)
O 414.1C	Quality Assurance (06/17/05)
O 420.1B	Facility Safety (12/22/05)
O 425.1C	Startup and Restart of Nuclear Facilities (03/13/03)
O 430.1B	Real Property Assessment Management (09/24/03)
O 433.1	Maintenance Management Program for DOE Nuclear Facilities (06/01/01)
O 435.1	Radioactive Waste Management (07/09/99; Change 1, 08/28/01)
O 440.1A	Worker Protection Management for DOE Federal and Contractor Employees (03/27/98)
O 450.1	Environmental Protection Program (01/15/03; Change 2, 12/07/05)
O 451.1B	National Environmental Policy Act Compliance Program, (10/26/00; Change 1, 09/28/01)
O 460.1B	Packaging and Transportation Safety (04/04/03)
O 460.2A	Departmental Materials Transportation and Packaging Management (12/22/04)
O 461.1A	Packaging and Transfer or Transportation of Materials of National Security Interest (04/26/04)
O 470.2B	Independent Oversight and Performance Assurance Program (10/31/02)
O 470.4	Safeguards and Security Program (08/26/05)
External Relationships	
O 1230.2	American Indian Tribal Government Policy (04/08/92)
Environmental Quality and Impact	
O 5400.5	Radiation Protection of the Public and the Environment (02/08/90; Change 2, 01/07/93)
O 5480.4	Environmental, Safety, and Health Protection Standards (05/15/84; Change 4, 01/07/93)
O 5480.20A	Personnel Selection, Qualification, and Training Requirements for DOE Nuclear Facilities (11/15/94; Change 1, 07/12/01)
Emergency Preparedness	
O 5530.3	Radiological Assistance Program (01/14/92; Change 1, 04/10/92)
O 5530.5	Federal Radiological Monitoring and Assessment Center (07/10/92; Change 1, 12/02/92)
Office of National Nuclear Security Administration	
O 5632.1C	Protection and Control of Safeguards and Security Interests (07/15/94)
O 5660.1B	Management of Nuclear Materials (05/26/94)

- That performance and quality improvement require thorough, rigorous assessment and corrective action;
- That workers are responsible for achieving and maintaining quality; and
- That environmental, safety, and health risks and impacts associated with work processes can be minimized while maximizing reliability and performance of work products.

DOE Order 420.1B *Facility Safety* (December 22, 2005)—This Order establishes facility safety requirements related to nuclear safety design, criticality safety, fire protection, and the mitigation of hazards related to natural phenomena.

DOE Order 425.1C, *Startup and Restart of Nuclear Facilities* (March 13, 2003)—This Order establishes DOE requirements for startup of new nuclear facilities and for the restart of existing nuclear facilities that have been shut down. The requirements specify a readiness review process that must demonstrate that it is safe to start (or restart) the subject facility. The facility must be started (or restarted) only after documented independent reviews of readiness have been conducted and the approvals specified in the Order have been received.

DOE Order 430.1B, *Real Property Asset Management* (September 24, 2003)—This Order establishes a corporate, holistic, and performance-based approach to real property life-cycle asset management that links real property asset planning, programming, budgeting, and evaluation to program mission projections and performance outcomes. This Order also identifies requirements and establishes reporting mechanisms and responsibilities for real property asset management. Planning for disposition must be initiated when real property assets are identified as no longer required for current or future programs. Disposition includes stabilizing, preparing for reuse, deactivating, decommissioning, decontaminating, dismantling, demolishing, and disposing of real property assets.

DOE Order 433.1, *Maintenance Management Program for DOE Nuclear Facilities* (June 1, 2001)—This Order defines the program for the management of cost-effective maintenance of DOE nuclear facilities. Guidance for compliance with this Order is contained in DOE Guide 433.1-1, “Nuclear Facility Maintenance Management Program Guide for use with DOE Order 433.1,” which references Federal regulations, DOE directives, and industry best practices using a graded approach to clarify requirements and guidance for maintaining DOE-owned government property.

DOE Order 435.1, *Radioactive Waste Management* (July 9, 1999)—This Order and its associated manual and guidance establish responsibilities and requirements for the management of DOE high-level radioactive waste, transuranic waste, low-level radioactive waste, and the radioactive component of mixed waste. These documents provide detailed radioactive waste management requirements, including waste incidental to reprocessing determinations; waste characterization, certification, and treatment, storage, and disposal; and radioactive waste facility design and closure.

DOE Order 440.1A, *Worker Protection Management for DOE Federal and Contractor Employees* (March 27, 1998)—This Order establishes the framework for an effective worker protection program that reduces or prevents injuries, illnesses, and accidental losses by providing safe and healthful DOE Federal and contractor workplaces.

DOE Order 450.1, *Environmental Protection Program* (January 15, 2003, Change 2, December 7, 2005)—Under DOE Order 450.1, it is DOE policy to conduct its operations in a manner that ensures the protection of public health, safety, and the environment through compliance with applicable Federal and State laws, regulations, Orders, and other requirements. The objective of this Order is to implement sound stewardship practices that are protective of the

air, water, land, and other natural and cultural resources impacted by DOE operations. This objective is to be accomplished by implementing environmental management systems at DOE sites. An environmental management system is a continuing cycle of planning, implementing, evaluating, and improving processes and actions undertaken to achieve environmental goals.

DOE Order 451.1B, *National Environmental Policy Act Compliance Program*

(October 26, 2000; Change 1, September 28, 2001)—The purpose of this Order is to establish DOE internal requirements and responsibilities for implementing NEPA, the CEQ Regulations Implementing the Procedural Provisions of NEPA (40 CFR 1500-1508), and the DOE NEPA Implementing Procedures (10 CFR Part 1021). The goal of establishing the requirements and responsibilities is to ensure efficient and effective implementation of DOE NEPA responsibilities through teamwork. A key responsibility for all participants is to control the cost and time for the NEPA process while maintaining its quality.

DOE Order 460.1B, *Packaging and Transportation Safety* (April 14, 2003)—This Order sets forth DOE policy and assigns responsibilities for the proper packaging and transportation of DOE offsite shipments and onsite transfers of hazardous materials and for modal transport.

DOE Order 460.2A, *Departmental Materials Transportation and Packaging Management* (December 22, 2004)—This Order requires DOE operations to be conducted in compliance with all applicable international, Federal, State, local, and Tribal laws, rules, and regulations governing materials transportation that are consistent with Federal regulations, unless exemptions or alternatives are approved. This Order also states that it is DOE policy that shipments will comply with the U.S. Department of Transportation 49 CFR 100 through 185 requirements, except those that infringe upon maintenance of classified information.

DOE Order 461.1A, *Packaging and Transfer or Transportation of Materials of National Security Interest* (April 26, 2004)—This Order establishes requirements and responsibilities for offsite shipments of naval nuclear fuel elements, Security Category I and II special nuclear material, nuclear explosives, nuclear components, special assemblies, and other materials of national security interest; onsite transfers of naval nuclear fuel elements, Security Category I and II special nuclear material, nuclear components, special assemblies and other materials of national security interest; and certification of packages for Security Category I and II special nuclear material, nuclear components, and other materials of national security interest.

DOE Order 470.2B, *Independent Oversight and Performance Assurance Program*

(October 31, 2002)—This Order establishes the Independent Oversight Program which is designed to enhance the DOE safeguards and security; cyber security; emergency management; and environment, safety, and health programs by providing DOE and contractor managers, Congress, and other stakeholders with an independent evaluation of the adequacy of DOE policy and the effectiveness of line management performance in these and other critical functions as directed by the Secretary.

DOE Order 470.4, *Safeguards and Security Program* (August 26, 2005)—This Order establishes the roles and responsibilities for the DOE Safeguards and Security Program. The DOE Safeguards and Security Program consists of six key elements: (1) program planning and management, (2) physical protection, (3) protective force, (4) information security, (5) personnel

security, and (6) nuclear material control and accountability. Specific requirements for each of the key elements are contained in their respective programmatic manuals. The requirements identified in these manuals are based on national level policy promulgated in laws, regulations, and Executive Orders, to prevent unacceptable adverse impacts on national security, the health and safety of DOE and contractor employees, the public, and the environment.

DOE Order 1230.2, *American Indian Tribal Government Policy* (April 8, 1992)—This Order establishes responsibilities and transmits the DOE American Indian and Alaska Native Policy. The policy outlines the principles to be followed by DOE in its interactions with Federally-recognized American Indian Tribes. It is based on Federal policy treaties, Federal law, and DOE’s responsibilities as a Federal agency to ensure that Tribal rights and interests are identified and considered pertinent during decisionmaking.

DOE Order 5400.5, *Radiation Protection of the Public and the Environment* (February 8, 1990; Change 2, January 7, 1993)—This Order establishes standards and requirements for DOE operations for protection of members of the public and the environment against undue risk from radiation. It is DOE policy to implement legally applicable radiation protection standards and to consider and adopt, as appropriate, recommendations by authoritative organizations; for example, the National Council on Radiation Protection and Measurements and the International Commission on Radiological Protection. It is also DOE policy to adopt and implement standards generally consistent with those of NRC for DOE facilities and activities not subject to NRC licensing authority.

DOE Order 5480.4, *Environmental, Safety, and Health Protection Standards* (May 15, 1984; Change 4, January 7, 1993)—This Order requires that DOE and its contractors who are subject to this Order to comply with the Occupational Safety and Health Administration Occupational Safety and Health Standards at 29 CFR 1910. This Order also specifies a number of American National Standards Institute standards applicable to radiation protection that DOE and its contractors must meet.

DOE Order 5480.20A, *Personnel Selection, Qualification, and Training Requirements for DOE Nuclear Facilities* (November 15, 1994; Change 1, July 12, 2001)—This Order establishes the selection, qualification, and training requirements for DOE contractor personnel involved in the operation, maintenance, and technical support of DOE nuclear reactors and nonreactor nuclear facilities. DOE objectives under this Order are to ensure the development and implementation of contractor-administered training programs that provide consistent and effective training for personnel at DOE nuclear facilities. The Order contains minimum requirements that must be included in training and qualification programs.

DOE Order 5530.3, *Radiological Assistance Program* (January 14, 1992; Change 1, April 10, 1992)—This Order establishes DOE policy, procedures, authorities, and responsibilities for its Radiological Assistance Program. Through this program DOE provides assistance to State, local and Tribal jurisdictions in preparing for a radiological emergency. The Order requires that DOE establish response plans, maintain resources, and provide assistance to Federal, State, local, and Tribal governments in the event of a real or potential emergency.

DOE Order 5530.5, *Federal Radiological Monitoring and Assessment Center* (July 10, 1992; Change 1, December 2, 1992)—This Order establishes DOE policy, procedures, authorities, and requirements for the establishment of a Federal Radiological Monitoring and Assessment Center, as set forth in the Federal Radiological Emergency Response Plan (50 FR 46542).

DOE Order 5632.1C, *Protection and Control of Safeguards and Security Interests* (July 15, 1994)—This Order establishes policy, responsibilities, and authorities for the protection and control of safeguards and security interests (for example, special nuclear material, vital equipment, classified matter, property, facilities, and unclassified irradiated reactor fuel in transit).

DOE Order 5660.1B, *Management of Nuclear Materials* (May 26, 1994)—This Order establishes requirements and procedures for the management of nuclear materials within the DOE.

6.4 Applicable State of New Mexico and Local Statutes, Regulations, and Agreements

Certain environmental requirements have been delegated to State authorities for implementation and enforcement. It is DOE policy to conduct its operations in an environmentally safe manner that complies with all applicable statutes, regulations, and standards, including State laws and regulations. A list of applicable State of New Mexico and local statutes, regulations and agreements or Orders are provided in **Table 6-4**.

Since the last SWEIS was published, the New Mexico Environmental Department has entered into a Compliance Order on Consent (Consent Order) with DOE and University of California pursuant to Section 74-4-10 of the Hazardous Waste Act and 74-9-36(D) of the Solid Waste Act. The Consent Order requires DOE and the University of California (or its successor) to conduct a site-wide investigation and cleanup of contamination at LANL in accordance with the procedures and schedules set forth in the Consent Order. The Consent Order sets forth requirements to investigate and remediate a large number of potential release sites and areas of concern, including, but not limited to, several former material disposal areas.

Table 6-5 lists the State permits that have been issued to LANL.

6.5 Consultations

Certain laws, such as the Endangered Species Act, the U.S. Fish and Wildlife Coordination Act, and the National Historic Preservation Act, require consultation and coordination by DOE with other governmental entities including other Federal agencies, State and local agencies, and Federally-recognized American Indian Governments. In addition, the DOE American Indian and Alaska Native Government Policy requires DOE to consult with any American Indian or Alaska Native Tribal Government with regard to any property to which the Tribe attaches religious or cultural importance that might be affected by a DOE action. Most of these consultations are related to biotic resources, cultural resources, and American Indian rights.

Table 6–4 State and Local Requirements

<i>Activity</i>	<i>Citation</i>	<i>Requirements</i>
Endangered Plant Species	New Mexico Administrative Code (NMAC), Title 19, Chapter 21, Endangered Plants (Revised December 3, 2001)	Establishes plant species list and rules for collection.
Environmental Oversight and Monitoring Agreement	Agreement in Principle Between DOE and the State of New Mexico, November 2000.	Provides DOE support for State activities in environmental oversight, monitoring, access, and emergency response.
Federal Facility Compliance Order	October 1995 (issued to both DOE and LANL)	Order used by the New Mexico Environment Department to enforce the Federal Facility Compliance Act. It requires compliance with the approved LANL Site Treatment Plan, which documents the development and use of treatment capacities and technologies, and use of offsite facilities for treating mixed radioactive waste stored at LANL.
Los Alamos County Noise Restrictions	Los Alamos County Code, Chapter 8.28	Imposes noise restrictions and makes provisions for exceedances.
Environmental Improvement Act	New Mexico Statutes Annotated (NMSA) 1978, sections 74-1-1 through 74-1-15; NMAC, 20.5.1 through 20.5.17, August 15, 2003. The New Mexico Environment Department recently changed their regulations for storage tanks, combining the regulations for aboveground and underground storage tanks into the Petroleum Storage Tank regulations. Petroleum Storage Tank regulations found in 20.5.1 NMAC through 20.5.17 NMAC; filed for publication in the <i>New Mexico Register</i> on July 16, 2003; effective August 15, 2003.	Aboveground tank regulations were modified to include requirements for the registration, installation, modification, repair and closure or removal of aboveground storage tanks, as well as release detection, record-keeping and financial responsibility in the State of New Mexico.
New Mexico Air Quality Control Act	NMSA, Chapter 74, “Environmental Improvement,” Article 2, “Air Pollution” (Revised 10/31/02), and implementing regulations at NMAC Title 20, “Environmental Protection,” Chapter 2, “Air Quality” (Revised October 31, 2002)	Establishes air quality standards and requires a permit prior to construction or modification of an air contaminant source. Also requires an operating permit for major producers of air pollutants and imposes emission standards for hazardous air pollutants.
New Mexico Cultural Properties Act	NMSA, Chapter 18, “Libraries and Museums,” Article 6, “Cultural Properties”	Establishes the State Historic Preservation Office and requirements to prepare an archaeological and historic survey and consult with the State Historic Preservation Office.
New Mexico Groundwater Protection Act	NMSA, Chapter 74, Article 6B, “Groundwater Protection”	Establishes State standards for protection of groundwater from leaking underground storage tanks.
New Mexico Hazardous Chemicals Information Act	NMSA, Chapter 74, Article 4E-1, “Hazardous Chemicals Information”	Implements the hazardous chemical information and toxic release reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (SARA Title III) for covered facilities.
New Mexico Hazardous Waste Act	NMSA, Chapter 74, Article 4, “Hazardous Waste,” and implementing regulations found in NMAC Title 20, “Environmental Protection,” Chapter 4, “Hazardous Waste” (Revised June 14, 2000).	Establishes permit requirements for construction, operation, modification, and closure of a hazardous waste management facility and establishes State standards for cleanup of releases from leaking underground storage tanks.

<i>Activity</i>	<i>Citation</i>	<i>Requirements</i>
New Mexico Endangered Plant Species Act	NMSA, Chapter 75, Miscellaneous Natural Resource Matters, Article 6, "Endangered Plants"	Requires coordination with the State.
New Mexico Night Sky Protection Act	NMSA, Chapter 74, Article 12 "Night Sky Protection:" 74-12-1 to 74-12-10) (House Bill 39/A, March 1, 1999)	Regulates outdoor night lighting fixtures to preserve and enhance the State's dark sky while promoting safety, conserving energy, and preserving the environment for astronomy.
New Mexico Radiation Protection Act	NMSA, Chapter 74, Article 3, "Radiation Control" and implementing regulations found in NMAC Title 20 Chapter 3, "Radiation Protection" (revised April 15, 2004) "Environmental Protection"	Establishes State requirements for worker protection.
New Mexico Raptor Protection Act	NMSA, Chapter 17, Article 2-14	Makes it unlawful to take, attempt to take, possess, trap, ensnare, injure, maim, or destroy any of the species of hawks, owls, and vultures.
New Mexico Solid Waste Act	NMSA, Chapter 74, Article 9, Solid Waste Act, and implementing regulations found in NMAC Title 20, "Environmental Protection," Chapter 9, Solid Waste (Revised November 27, 2001)	Requires permit prior to construction or modification of a solid waste disposal facility.
New Mexico Water Quality Act	NMSA, Chapter 74, Article 6, "Water Quality," and implementing regulations found in NMAC, Title 20, "Environmental Protection", Chapter 6, "Water Quality". (Revised January 15, 2001)	Establishes water quality standards and requires a permit prior to the construction or modification of a water discharge source.
New Mexico Wildlife Conservation Act	NMSA, Chapter 17, Game and Fish, Article 2, Hunting and Fishing Regulations, Part 3, Wildlife Conservation Act	Requires a permit and coordination if a project may disturb habitat or otherwise affect threatened or endangered species.
Compliance Order on Consent	March 1, 2005 (entered into by the New Mexico Environment Department, DOE and the University of California); (NMED 2005).	Requires site investigations of known or potentially contaminated sites at LANL and cleanup in accordance with a specified process and schedule.
Pueblo Accords	DOE 1992 Cooperative Agreements with each of four Pueblos (Pueblos of Cochiti, Jemez, Santa Clara, and San Ildefonso)	Sets forth the specifications for maintaining a government-to-government relationship between DOE and each of the four Pueblos closest to LANL.
Threatened and Endangered Species of New Mexico	NMAC Title 19, "Natural Resources and Wildlife," Chapter 33, "Endangered and Threatened Species," 19.33.6.8 (Revised November 30, 2004)	Establishes the list of threatened and endangered species.

Table 6-5 State Environmental Permits

<i>Category/Approved Activity</i>	<i>Permit</i>	<i>Date Issued</i>	<i>Expiration Date</i>
Air Permits			
Facilities with emissions greater than 100 tons per year of nitrogen oxide, volatile organic compound, and carbon monoxides (NMAC Operating Permit)	Operating Permit Number P100	April 30, 2004	April 29, 2009
Portable Rock Crusher	Construction Permit Number 2195	June 16, 1999	None
Beryllium Machining at TA-3-141	Construction Permit Number 634-M2	October 30, 1998	None
Beryllium Machining at TA-35-213	Construction Permit Number 632	December 26, 1985	None
Beryllium Machining at TA-55-4	Construction Permit Number 1081-M1-R3	July 1, 1994 (Revised March 11, 2000)	None
Operational Burning at TA-16	Open Burning TA-16-OB-2003	December 27, 2002	December 31, 2007

<i>Category/Approved Activity</i>	<i>Permit</i>	<i>Date Issued</i>	<i>Expiration Date</i>
Operational Burning at TA-11	Open Burning TA-11-OB-2003	December 27, 2002	December 31, 2007
Operational Burning at TA-14	Open Burning TA-14-OB-2003	December 27, 2002	December 31, 2007
Operational Burning at TA-36	Open Burning TA-36-OB-2003	December 27, 2002	December 31, 2007
Flue Gas Recirculation Installation at the Power Plant	Construction Permit Number 2195-B-R1	September 27, 2000	None
TA-33 Generator	Construction Permit Number 2195-F	October 10, 2002	None
Asphalt Plant	Construction Permit GCP-3-2195G	October 29, 2002	None
Data Disintegrator	Construction Permit Number 2195-H	October 22, 2003	None
Open Burning TA-16 (Flash Pad) and TA-11 (Wood and Fuel Fire Test Sites) (Note: Treatment of non-detonable high explosives-contaminated scrap metal [TA-16-388]/Wood and Fuel Burning [TA-11]) (LANL 2006)	Permit Number 2195J	March 29, 2005	None
Sled Track Dynamic Experimentation (TA-36)	Permit Number 2195K	March 29, 2005	None
Hazardous Waste Permits			
Hazardous Waste Facility Permit and Mixed-Waste Storage and Treatment Permit	Permit Number NM0890010515	November 1989	November 1999 (Permit has been administratively continued)
TA-50 Part B Permit Renewal Application Revision 3.0	Permit Number NM0890010515	August 2002	None
General Part B Permit Renewal Application, Revision 2.0	Permit Number NM0890010515	August 2003	None
TA-54 Part B Permit Renewal Application, Revision 3.0	Permit Number NM0890010515	June 2003	None
TA-16 Part B Permit Renewal Application, Revision 4.0	Permit Number NM0890010515	June 2003	None
TA-55 Part B Permit Application, Revision 2.0	Permit Number NM0890010515	September 2003	None
General Part A Permit Application, Revision 4.0	Permit Number NM0890010515	December 2004	None
RCRA Corrective Activities	Permit Number NM0890010515	March 1990	December 1999 (Permit has been administratively continued)
Groundwater Discharge Permits			
Groundwater Discharge Plan, TA-46 Sanitary Wastewater Systems Plant	Not applicable	January 7, 1998	January 7, 2003 (Permit has been administratively continued)
Groundwater Discharge Plan, TA-50, Radioactive Liquid Waste Treatment Facility	Not applicable	Submitted August 20, 1996, approval pending	None

NMAC = New Mexico Administrative Code, TA = technical area, RCRA = Resource Conservation and Recovery Act.
Source: LANL 2004f.

Biotic resource consultations generally pertain to the potential for activities to disturb sensitive species or habitats. Cultural resource consultations relate to the potential for disruption of important cultural resources and archaeological sites. American Indian consultations are concerned with the potential for impacts on any rights and interests, including disturbance of ancestral American Indian sites, and sacred sites, traditional and religious practices of American Indians, and natural resources of importance to American Indians.

DOE consults with the appropriate State Historic Preservation Officers, as required by NEPA and Section 106 of the National Historic Preservation Act; the U.S. Fish and Wildlife Services, as required by the Endangered Species Act of 1973, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act; and the appropriate State regulators, as required by State of New Mexico laws or regulations. Consultations in support of this SWEIS are in progress.

The Government is committed to meeting its responsibilities in government-to-government relationships between Federally-recognized American Indian Tribes and DOE. **Table 6–6** lists Executive Memoranda and DOE direction regarding government-to-government relations with American Indian Tribal Governments. DOE undertook an extensive effort to consult with American Indian Tribal Governments during the preparation of the 1999 *Site-Wide Environmental Impact Statement for the Continued Operation of the Los Alamos National Laboratory, Los Alamos, New Mexico (1999 SWEIS)* (DOE/EIS-0238). DOE has initiated consultations with the appropriate American Indian Tribal Governments, as required by Executive Memoranda and DOE Order 1230.2, *American Indian Tribal Government Policy* (see Section 6.3) to complement that earlier effort.

Table 6–6 Government-to-Government Relationships with Tribal Governments

<i>Date</i>	<i>Title</i>
September 23, 2004	Memorandum for the Heads of Executive Departments and Agencies Government-to-Government Relationship with Tribal Governments (references Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Executive Order 13336, entitled American Indian and Alaska Native Education). This complements and partially supersedes the similar executive memorandum of April 29, 1994.
August 21, 2001	Secretary Abraham Reaffirms DOE’s Government-to-Government Relations with American Indian Tribal Governments (References American Indian and Alaska Native Tribal Government Policy)
April 29, 1994	Memorandum for the Heads of Executive Departments and Agencies, Government-to-Government Relations with Native American Tribal Governments